

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Anthony M. Werts,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No.: 4:08-3291-TLW-TER
)	
Major Anderson; Capt. Middleton; Sgt.)	
Maney; Sgt. Lark; Ms. McFadden,)	
)	
Defendants.)	
)	

ORDER

Plaintiff, Anthony M. Werts (“plaintiff”), brought this civil action, *pro se*, pursuant to 42 U.S.C. § 1983. (Doc. #1). Defendant McFadden filed a motion to dismiss on March 3, 2009. (Doc. #30). The plaintiff filed a response to the motion to dismiss on March 12, 2009. (Doc. #40). Defendant McFadden filed a reply on March 27, 2009. (Doc. #43). The remaining defendants filed a motion for summary judgment on June 15, 2009. (Doc. #47). The plaintiff filed a response in opposition to the motion for summary judgment on June 29, 2009. (Doc. #52).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III to whom this case had previously been assigned. (Doc. #59). In the Report, the Magistrate Judge recommends that the District Court grant defendant McFadden’s motion to dismiss; grant the remaining defendants’ motion for summary judgment; and deem all remaining outstanding motions moot. (Doc. #59). The plaintiff filed objections to the report¹. (Doc. #61). In conducting this review, the Court applies the

¹The Clerk of Court has returned a deficiency memo to the plaintiff noting that his objections have not been signed. (Doc. #62). The deficiency has not been corrected as of this date. However, the Court has fully considered the objections despite the fact that these objections lack the plaintiff’s signature.

following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In the Report, the Magistrate Judge notes that to the extent any of the plaintiff's claims can be construed as a request for injunctive relief, these claims are moot as the plaintiff is no longer housed in the Greenwood County Detention Center. In the objections, the plaintiff notes that he was still incarcerated at the Greenwood County Detention Center at the time that the objections were written. However, the plaintiff has requested monetary relief rather than injunctive relief, and the Court does not conclude that injunctive relief is appropriate in this case. Further, the plaintiff filed a letter which was received by the Clerk of Court on December 11, 2009, noting that he is now housed in the custody of the South Carolina Department of Corrections. (Doc. #66). Thus, any claims against the Greenwood County Detention Center for injunctive relief would be moot at this time.

In light of the standard set forth in Wallace, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #59). For the reasons articulated by the Magistrate Judge, defendant McFadden's

motion to dismiss, (Doc. #30), is hereby **GRANTED**; the remaining defendants' motion for summary judgment, (Doc. #47), is hereby **GRANTED**; and all remaining motions are **DISMISSED** as **MOOT**.

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

December 18, 2009
Florence, South Carolina